G. R. S. 58]

Previous references.

File No. 553 – C

1909.

(Miscellaneous)

Serial Nos. 165

Later references.

M 755–12–

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 165

Part B for April 1911.

SUBJECT.

~~Appointment~~

Sanctions the appointment Syed Jamal Miya, as Khaji of Udagani, Shikarpur Taluka.

No 1 From the Deputy Commr Dharwar Distt
No 400/245 Dt 10.3 1910
Recommends the appointment of Syed Jamal Miya as Khaji of Udagani.

No 2. To The Deputy Commr Bangalore Distt
No 2364 Dt 19.7 1910
Requests the forwardal of

GPB—5,000—22-10-10

G.R.S.11] 1909-10.

GENERAL AND REVENUE SECRETARIAT

(Mazrai)

NOTES.

File No. 553-09.

FILE HEADING.

Khazirship of Udagani and other villages of the Shikarpur Taluk.

From

The Deputy Commissioner, Shimoga Dt

No. 400/245 Dated 10. 3. 10 Received 11. 3. 10.

Diary No. 1709	Enclos.	Spare Copies	Serial No. 1

BRIEF ABSTRACT OF LETTER.

Recommends the appointment of Syed Jamal Mya as Khazi of Udagani.

NOTES AND ORDERS.

The Deputy Commissioner's letter now under disposal explains the facts of the case in detail. From it, it is observed that the question to be ~~disposed of~~ decided is as to who has the preferential right to ~~the appo~~ succeed to the appointment of Khazi — whether the widow of

NOTES—First sheet

GPB—30,000—3 1 07

Land Revenue Secretariat.

Jung File No. 553 of 1907

Serial No.

the last male holder of the appointment, herself being allowed to nominate a gumastah to officiate in the post or the son of the younger brother of the last male holder's paternal grandfather. The Deputy Commissioner recommends in favor of the latter, firstly on the ground that the functions of a Khasi cannot be performed by a woman and that the appointment of a gumastah for her cannot be entertained so long as a competent male member of the family is available, and secondly, because it appears from the records that it was the latter's father who originally held the Khasi niam land consented to its being registered in the name of the last holder (who was his father's brother's grandson) subject to the condition that the niam land should go to the holder of the Khasi's office.

May the file be referred to the Govt. Advocate unofficially for an expression of his opinion.

Subd. Traders.

By 13/11/10 The Case appears to be a simple one. I am not sure if a reference to the Govt. advocate is necessary. The facts I believe are mostly undisputed. The only question is whether the decision has been upheld by above. Apparently the widow in possession of the land has gotten having been transferred the name in 1894 when her husband died. Since then the gumastas who worked during the husband's minority

NOTE.—Contn sheet.

GPB—55,000—27-4-08

File No. 553 of 1909

Serial No.

and perhaps even after the attained majority, continued till his death about 45 years ago. The dispute seems to have commenced then. The Bailiff vide X Nov. 298 of 25.10.1909 states that the majority of Muslims are in favour of the Hanafis. This portion is unclear also. In the event of the Hanafis being appointed it is a question whether they be allowed mobile fees in pursuance of the Govt. Dept. orders issued for a civil suit. Whether the law ~~I do not know the section of the Act~~ Revenue that this Govt is remunerative for similar this authority appointed seems it has a Civil Court for a similar Law. I do not know Hanafi laws in pursuance of this law

Submitted to Secretary

Assistant

21/5/10

3882

Please let me see a book of Allahabad Mahomedan Law (Amer Ali's) as to the rule of succession in such cases -

22/5/10

Please let me have the whole book. This volume does not contain anything about religious or other offices.

23/5/10

I see nothing in this book on the subject.

NOTE—Contn. sheet

GPB—55,000—27-4-09

127
and Revenue
Secretariat.

1709

File No. 553 of 1909

Serial No.

It seems to me that the Kazi Office is hardly a heritable one, and that a woman cannot certainly succeed to it. Still I should like to see some authority or get some expert opinion.

Will the N.S. kindly search the Calalogue of this or ch ct library to find some book bearing on the subject. If there is any learned Kazi here, his opinion may be obtained.

23/5/10

W O. No. 27
Dy 26. 5 10

Forwarded unofficially to Govt Advocate for favour of opinion with authorities

By order

26/5/1910

W.O. 70.

I was not able to find any authority on the point.

The Kazee referred to in Hedaya, was an ---- officer under the Mahomeddan Government who administered justice, criminal and civil, holding his Court in a mosque or a public place. A woman has

NOTE—Contn sheet

GPB—55,000—27 4 09

Revenue riat. | File No. S.S.3 of 190 9

Serial No.

has been declared ~~not~~ incompetant to execute the office of a Kazee in certain respects ~~only~~. (See Hamilton's Hedaya Book XX).

Flag W

The office now in dispute seems to be of a different nature. In the absence of any law ----- regulating the succession to suc an office, the case will have to be disposed of on proved usage and precedents if any.

S Narayana Rao
Govt Advocate

28-5-1910

Please let this book from the library; also Khaji Act

28/5/1910

Subd with Hamilton's Hedaya vol II.
attention is invited to p. 633 (The Kazee).
'The Khaji act' is not available in the records, nor in Bor III.

RG
8/6/10

I think there is a standing order of the Govt Dept that the case of Khajis are to be treated as cases of Inajans. Authority if any, but it is a question for the Chitaldroog Khaji for may throw some light on the matter

8/6/1910

1. Pro — 13-6-10 —
2. Gist.

The Chitaldrog Khaji file is subd for kind perusal ~~the civil Organising Khajis be treated as Inajans do not recollect any~~ The file does not furnish us with information as to Khajis being treated as Inajans.

A Copy of Govt order No 3832 of 18-4-05

NOTE—Contn. sheet.

GPB—55,000—27-4-10

File No. [illegible] of 190

Serial No.

passed in
Appeal Case no 73 of 04 os regarding the Khasiship of Dorballapur. of Sib Dinne Zakutto is put up.

RL
28/6/10

Im file relating to Min under Instt may
pri Lowinfra Please put up to
Chitalsong Hill Tipperah Mukeray.

2

30/6/1910

The file no. 130-of 03 relating to f.o no 3832 of 18-4-05 is put up. Kind Secy is invited to Para 2 of the decision. viz "It cannot be strongly be contended "that the Khasiship in question is not a "hereditary office recognised by Govt". That "being so, Govt hold that the Revs Courts have jurisdiction over claims concerning it"

This seems to indicate that Khasi cases are to be dealt with in the same way as Punjabi cases.

RL
1/7/10

Let matter be laid before Govt

Bengal

1/7/1910

Let me first see the entire records of the Dorballapur Jurisdiction Khasi case. I should like if this stage Mr. Narasinga Rao's judgment enters into the question of jurisdiction. Lesser the draft Instt

9.
13/7/1910

NOTE—Contn. sheet.

GPB—55,000—27-4-09

File No. 553 of 1909

1393

Serial No.	
	To, The Dy Commr, Bangalore Dist
2	Docket no 1492 dy 1-12-1910
	calls for the records connected
	with the Khazirship of the Goribidanur
	and Doddaballapur Taluks
3.	From, the Dane,
	Letter no 41 dy 24 1 1910
	Submits the records.
B	A copy of the D M. Narasinga Rao's
	judgment is received with the records
	Para 9 of the judgment enters
	into the question of jurisdiction-
	Submitted for orders
	BV (132) RL
	28-1-1911
506	Submitted Hon'ble Committee
	I have been able to find out from decisions
	about Khajis. They are:-
	(1) Mahamed Yusuf vs Syed Ahmad
	(1 Bombay High Court Reports Appendix p. X VIII)
	(2) Syed Ahmed vs Sayad Hasan
	(# I.L.R. Bombay P. 639. note)
	(3) Jamal Vakal Ahmed vs Jamal Vakkal Jafal
	(# I.L.R. Bombay P. 633)
	(4) Dawood Sha vs Ismail Sha
	(I.L.R. III Bombay 72)

GPB—55,000—27-4-09

Serial No.

of these cases No. 2 seems to be most in point.

The Judge says: — "The Dt. Judge has found as a fact that Bai Shah held the lands during her life and appointed persons to perform the duties of Khazi . . . by virtue of a custom which allows the widows of Khazis a life interest in the office."

In No. 3 it has been held that ~~a Khazi's office is not~~ hereditary in the absence of an established local custom to that effect, the office of Kazi is not hereditary.

Whether such a custom is valid is doubtful.

All the decisions say that Govt. alone retain the right of appointing Khazis.

But as stated by the Govt. advocate there are no Khojis now performing the duties prescribed by the Memorandum dow; and to a decision based upon that law and the decisions quoted above may not avail for present circumstances.

In Bagoa the custom may be gathered from the

R. following passage from the Govt. Resolution about Dowdabhai Mohomedbhai Khoja's case: —

"It cannot be seriously contended that the Khoja-ship in question is not a hereditary office recognised by Govt. That being so Govt. have held that the Revenue Courts have jurisdiction over claims concerning it"

B In lieu of the original jurisdiction of the Asst. Collr. he would discharge this function of jurisdiction I shall for the reasons the Asst. Collr. merely says thus: — "Khoja Office being

NOTE — Contn. sheet.

GPB—50,000—12-8 10

enue
at.

File No. 533 of 1909

7

Serial No.

Any hereditary suits relating to it fall within the meaning of Section 221 of the Land Rev: Code and are therefore not cognizable by the Civil Courts"

Whether Rev: Courts have jurisdiction or not there is the opinion of the survival judges of the Bombay High Court that the appointment of Khoti should rest with the Government.

D The Khoji Act brought not enforce in any case provide for such appointment.

C Govt Order No. 9/1600-39 Ex m 1-08-2 dtd 7th Sept 1908 Bom, that the appointment of Khoji rests with Govt.

Thus it there can be no doubt that the present case has to be decided by Govt.

The office appears to be looked upon as hereditary and the claimants today are descendants from a remote common ancestor.

W Case No. 2 cited above and Hamilton's Hedaya are authorities for a woman enjoying the emoluments and appointing a servant for the discharge of duties.

In the present case the woman has been following through servants than what the male claimant has.

An authoritative order dismissing all matters may be passed for reference in future.

Abstract

15. 2. 1914

NOTE—Contn. sheet.

GPB—50,000—12 8 10

Revenue at.

File No. 553 of 1909

Serial No.

1728

It is difficult to hold that a Kharsi's office is hereditary. The Bombay High Court has consistently held that it is not so, and they follow the Mahammadan law on the question. The statement in the G.O. of 18 April 1905 is somewhat unfortunate; but I am inclined to restrict its operation is to that case, perhaps based on the evidence of some special usage recorded therein.

It is very clearly shown in the Bombay Cases, that the appointment is one to be made by Govt according to Mah= Law; and we have been

NOTE—Contn. sheet.

GPB—50,000—12 8 10

Revenue t.

553 1300

Mur File No. [illegible] of 1909

Serial No.

long acting on this basis. Any question connected with such appointment therefore rightly comes up before Government in the Muz. Department.

Without basing it on hereditary title, we may accept the D.C.'s recommendation and appoint Sayad Jamal Miya as Khazi of Udagani.

The question of the possession of the inam does need not be mentioned in the present order, but may be decided when any dispute arises about it.

17/3/11

NOTE.—Contn. sheet.

GPB—50,000—12 8 10

Revenue at.

553

File No. [illegible] of 19 09

1350 12

Serial No.

Petitions disposed of as indicated. Yr Memoranda have been returned by the Council for alteration. Memo withdrawn & Chief Court's judgment on this

8
4/3/1911

Submitted with DFS as indicated.
AG (132)
21.3.1911
RL 591

Draft submitted to Secy to Council
Ahmbhumayya
28/3/1911

Draft appd. by 2nd Councillor
25.3.11
MGJ

5

20

D. C Shimoga
No 2490 D. 1.4.11

Sanctions the appointment of Syed Janmal Miya as Khazi of Udagani and other villages of Shikarpur Taluk

To — D C Bangalore
No 2491 D 1.4.11.

Returns the vernacular records relating to the Kazi ship of Gubbi & Dodballapur Taluks.

Re 3
11.4.

The under mentioned rules have been referred —
Unrepealed Acts of the Governor in Council Vol II
Regulations or Ordinances in Relation to Laws Vol II
Bd. R - 1879 (Bombay) Vol III.
do 1876-77 (Bombay) Vol I
Bombay High Court reports Vol I.

NOTE- Contn. sheet.

GPB—50,000—12 8 10

1909-10
5253-09

From The Deputy Commissioner
Shimoga District

To C. Balasundaram Iyer Esqre
Asst. Secy to the Govt of Mysore
General and Revenue Dept

Dated 10th March 1910.
Despatched
Received

General No. 400
No. 245
Enclosure No. 1 file.

Reports recommending Syed Jamal Shiya to be appointed as Khaji for Aldagani and other villages of the Shikarpur Taluk

SA
11/3/10

No. 400/245 Exe 1 file Deputy Comm S

Dated 10. March 1910.

From

M. Narain Rao Esquire
Deputy Commissioner
Shimoga District.

To C. S. Balasundaram Iyer Esqre B.A.
Offg Secretary to the Govt of Mysore
- General and Revenue Dept D.

Sir,

I have the honor to submit for the orders of Government, the following Case relating to the Appointment of Khaji for Udagani and other villages of the Shikarpur Taluk.

2. The Appointment in Question was held by Syd Akbar with a Cash allowance of Rs 7-4-- a per annum till the year 1869 when the Cash Grant was Converted into a land

Inam

Inam, Survey no: 185 (old no 122) measuring 1 acre and 28 guntas, assessed at Rupees 9-a being assigned as Inam. Syed Akbar died in the year 1893, leaving a widow named Bibé Saheba and a daughter behind him. In 1894, the Inam land was registered in the name of the widow and it is still in her enjoyment.

3. Since Syed Akbar's death, no appointment has been made to the office of Khazi, but it is said that the functions of Khazi have been performed either by a gumasta on behalf of Bibi Saheba or by one Syed Jamal Mia, nephew of late Syed Akbar's grand father. (Vide genealogical tree in the file) This Syed Jamal Mia now claims to be appointed as Khazi and put in possession of the Inam land

attached to the Office, while Bibi Saheba as the widow of the last Khazi applies for permission to appoint a Gumasta on her behalf to perform the functions of Khazi.

4. That Jamal Meiya is the representative of the second branch of the original Khazi's family is not disputed. As the functions of a Khazi cannot be performed by a woman, the application of Bibi Saheba to appoint a Gumasta cannot be entertained so long as a competent male member of the family is available.

5. It will moreover be observed from the records connected with the Conversion of the Cash Grant into a land Inam in 1869 (vide Copies marked as Exhibit I) that the land Survey no: 185 (old no 122) which was confirmed as Inam originally stood in the name of the father of Jamal Meiya

Jamal Muiya and that he then Consented to it's being registered as Inam land in the name of Syed Akbar's father Syed Asharif subject to the Condition of the Inam land going to any one who held the office of Khazi. He would not have given his Consent nor would he have insisted upon the above Condition if he were not sure of his succeeding to the Office of Khazi, in the absence of male members in the first branch of the family.

6. In these Circumstances, I would recommend the appointment of Syed Jamal Muiya to the Office of Khazi of Udagane.

7. The records Connected with the Case as per Ferist are herewith submitted for reference.

I have the honor to be.

Sir,

Your most obedient Servant.

Mr Narain Rao

Deputy Commissioner
Shimoga District

S. 26] 2

5

File No. 553/09

Serial No.

Diary No. of letter replied to

General and Revenue Secretariat
(Bangalore)
, *the* 190

Date of issue 19.7.10

Signed by Dr a.S.

No. 234
Mem 553-09-2

To
The Dy. Commissioner,
Bangalore ot

Sir,

I have the honor to request that for purposes of reference the entire records connected with Rev. Dis. No. 3 of 1899-1900 on the file of Assistant Commissioner in charge of the Doddaballapur Taluk, relating to the Khajithip of the Goribidanur and Doddaballapur Taluks & returned to you with Govt. Pro. No. 3832 of 18th April 1908, may be forwarded.

I have &c.,

18/7/1910

for Asstg. Secretary

over.

SUBJECT.

List of enclosures,

Copied by

Examined by

GPB—10,000—23-5-08

D 1300

Mus F 553-09-3

From

The Deputy Commissioner
Bangalore District

To

The Secretary to the
Govt of Mysore Rev & Ag Depts
(Mysore)

Dated

Despatched 24.1.11 Bangalore

Received

General No.

M.S. No. 41

Enclosure No. 43 files of V.P.

Submits records connected with the case of Khajisab of Goribidnur & Dodballapur Taluks &c &c

Comments note
RL
26/1/11

No. S. No.

Deputy Commissioners
Bangalore
Dated Bangalore 24th January 1911.

From
B. J. Kumaraswami Naik Esqre B. A.
Deputy Commissioner.
Bangalore District.

To
C. S. Balasundaram Iyer Esqre B. A.
Offg: Secretary to Government of Mysore
General & Revenue Departments.
Muzrai Branch

Sir,

With reference to your letter No: 234 dated the 19th July 1910, calling for the records connected with the Revenue Suit No: 3 of 1899-1900, on the file of the Assistant Commissioner in charge of the Doddballapur Taluk, relating to the Khajiship of Gorbidanur and Doddballapur, I have the honour to submit herewith the three marginally noted files connected with the case.

Muz: 533-09

I have the honour to be,
Sir,
Your most Obedient Servant,

Deputy Commissioner.
Bangalore District.

1. File containing certain documents and orders of the Dy: Commr: as per Margin.
2. File ending with No: 94 of 4-9-08 from the Sub Division Officer of Doddballapur.
3. File ending with Gadi No: 617 of 10-12-10 of Sub [illegible]

G.R.S. 28.]

27-3-11 3.2 pm

2775

File No. S SC 09

Serial No.

Diary No. of letter replied to 1707

Proceedings of the Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE SECRETARIAT.

( )

, *the* 19

Date of issue

Signed by

No 21470

Mun 553 09-14

READ—

The following letter no 400/245 Dt 10th march 1910 from the Deputy Commissioner, Shimoga District (in extenso)

Order thereon — No

In the circum

~~ORDER THEREON.—No.~~

~~Taxes reported by the Deputy Commr~~ Govt are pleased to sanction the appointment of Syed Jamal Muya as Khazi of Kidagani and other Villages of the Shikarpur Taluk.

B.

23/3/1911

for Offg Secretary

SUBJECT.

25/3/11

22/3/11

GPB—10,000 9 12 09

Dy. 29/3

To

The Dy. Comm^r. Shimoga.

Sir,

Proceedings of the Government of His Highness

the Maharaja of Mysore.

9

Read-

The following letter No. 400/245 dated the 10th March 1910 from the Deputy Commissioner, Shimoga District :-

I have the honour to submit for the orders of Government the following case relating to the appointment of Khaji for Udagani and other villages of the Shikarpur Taluk.

2. The appointment in question was held by Syed Akbar with a cash allowance of Rs. 7-4-0 per annum, till the year 1869 when the cash grant was converted into a land Inam , Survey No. 185 (Old No. 122) measuring 1 acre and 28 guntas, assessed at ---- Rs. 9-0-0 being assigned as Inam. Syed Akbar died in the year 1893, leaving a widow named Bibi Saheba and a daughter behind him. In 1894 the Inam land was registered in the name of the widow and it is still in her enjoyment.

3. Since Syed Akbar's death no appointment has been made to the office of the Khaji, but it is said that the functions of Khazi have been performed either by a gumasta on behalf of Bibi Saheba or by one Syed Jamal Miya, nephew of late Syed Akbar's grandfather. (Vide genealogical tree in the file). This Syed Jamal Miya now claims to be appointed as Khazi and put in possession of the Inam land attached to the office, while Bibi Saheba as the widow of the last Khazi applies for permission

to

10

to appoint a gumasta on her behalf to perform the functions functions of Khazi.

4. That Jamal Miya is the representative of the second branch of the original Khazi's family is not disputed. As the functions of a Khazi cannot be performed by a woman, the application of Bibi Saheba to appoint a gumasta cannot be entertained so long as a competent male member of the family is available.

5. It will moreover be observed from the records connected with the conversion of the cash grant into a land Inam in 1869 (Vide copies marked as Exhibit I) that the land Survey No.185 (Old No. 122) which was confirmed as Inam originally stood in the name of the father of Jamal Miya and that he then consented to its being registered as Inamm land in the name of Syed Akbar's father Syed Asharif, subject to the condition of the Inam land going to any one who held the office of Khazi. He would not have given his consent nor would he have insisted upon the above condition if he were not sure of his succeeding to the office of Khazi, in the absence of male members in the first branch of the family.

6. In these circumstances I would recommend that appointment of Syed Jamal Miya to the office of Khazi of Udagani.

7. The records connected with the case as per ~~first~~ ferist

are

are herewith submitted for reference.

Order thereon No:-

Dated Bangalore, the March 1911.

Government are pleased to sanction the appointment of Syed Jamal Miya as Khazi of Udagani and other villages of the Shikarpur Taluk.

31/3/1911

Fair draft
29.3.11

For Offg. Secretary to Government

To

The Deputy Commissioner, Shimoga District, returning the records.

G.R.S. 29A]

19

From

Secy. to the Govt. of His Highness
The Maharaja of Mysore,
Genl. and Rev. Dept.

To

The Dy Commr

Dated Bangalore 25th

Despatched 25/1/11

Received

General No. 3421

No. 53-4-5

Enclosure No. 1/-

Has the honor to return the records relating to the Khazirship of Gauribidanur and Doddaballapur Taluks received with his letter no 41 dy 24th January 1911

By order

Dy 25/3/1911

25/3/11 Dy. Secretary

GPB—20,000—24-10-10